

AMENDED IN ASSEMBLY AUGUST 16, 2004

AMENDED IN ASSEMBLY JUNE 30, 2004

AMENDED IN ASSEMBLY MAY 24, 2004

AMENDED IN ASSEMBLY MAY 13, 2004

AMENDED IN ASSEMBLY JANUARY 5, 2004

AMENDED IN ASSEMBLY JULY 14, 2003

AMENDED IN SENATE APRIL 29, 2003

SENATE BILL**No. 635**

Introduced by Senator Dunn
(Coauthor: Senator Romero)
(Coauthor: Assembly Member Jackson)

February 21, 2003

An act to add and repeal Section 76104.1 of the Government Code, to amend, repeal, and add Section 1797.98e of the Health and Safety Code, and to add and repeal Section 42007.5 of the Vehicle Code, relating to emergency medical services.

LEGISLATIVE COUNSEL'S DIGEST

SB 635, as amended, Dunn. Emergency medical services.

(1) Existing law authorizes each county to establish an emergency medical services fund, funded by specified revenue penalties, and makes money in the fund available for the reimbursement of physicians and surgeons and hospitals for losses incurred in the provision of emergency medical services when payment is not otherwise made for those services.

This bill would, until January 1, 2007, authorize Santa Barbara County to collect additional penalties, fines, or forfeitures, *and to modify the percentage distribution of the fund to the various medical care providers*, provided that the Santa Barbara County Board of Supervisors adopts a resolution stating that implementation of these provisions is necessary to the county for purposes of providing payment for emergency medical services.

(2) Existing law provides that payments for emergency medical services from the county emergency medical services fund shall be made only for emergency medical services provided on the calendar day on which emergency medical services are first provided and on the immediately following 2 calendar days, and specifies that payments may not be made for services provided beyond a 48-hour period of continuous service to the patient.

Existing law also provides that if it is necessary to transfer the patient to a 2nd facility providing a higher level of care for the treatment of the emergency condition, reimbursement shall be available for services provided at the facility to which the patient was transferred on the calendar day of transfer and on the immediately following 2 calendar days, and specifies that payments may not be made for services provided beyond a 48-hour period of continuous service to the patient.

This bill would, until January 1, 2007, eliminate the limitation against making those payments for services provided beyond a 48-hour period of continuous services to the patient.

(3) Existing law requires the clerk of the court to collect a fee from every person who is ordered or permitted to attend a traffic violator school or who attends any other court-supervised program of traffic safety instruction, and provides for the allocation of the fee. Existing law provides that any county that has established a Maddy Emergency Medical Services Fund shall deposit \$2 for every \$7 of additional penalties imposed by the courts for criminal offenses.

This bill would, until January 1, 2007, provide that the allocation of fees authorized by this bill for Santa Barbara County shall be deposited in that fund.

This bill would require the Board of Supervisors of Santa Barbara County to report to the Legislature whether, and to the extent that, actions are taken by the county to implement alternative local sources of funding, thereby imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.



Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 76104.1 is added to the Government
2 Code, to read:
3 76104.1. (a) ~~Notwithstanding~~—*Except as provided in*
4 *subdivision (d), and notwithstanding any other provision of law,*
5 *for purposes of supporting emergency medical services pursuant*
6 *to Chapter 2.5 (commencing with Section 1797.98a) of Division*
7 *2.5 of the Health and Safety Code, in Santa Barbara County, a*
8 *penalty of five dollars (\$5.00) for every ten dollars (\$10.00), or*
9 *fraction thereof, shall be imposed on every fine, penalty, or*
10 *forfeiture collected for criminal offenses, including all offenses*
11 *involving a violation of the Vehicle Code or any local ordinance*
12 *adopted pursuant to the Vehicle Code, except parking offenses*
13 *subject to Article 3 (commencing with Section 40200) of Chapter*
14 *1 of Division 17 of the Vehicle Code. This penalty assessment shall*
15 *be collected together with and in the same manner as the amount*
16 *established by Section 1464 of the Penal Code.*
17 (b) Notwithstanding any other provision of law, for the
18 purposes of supporting emergency medical services pursuant to
19 Chapter 2.5 (commencing with Section 1797.98a) of Division 2.5
20 of the Health and Safety Code, in Santa Barbara County, for every
21 parking offense, as defined in subdivision (i) of Section 1463 of
22 the Penal Code, where a parking penalty, fine, or forfeiture is
23 imposed, an added penalty of two dollars and fifty cents (\$2.50)
24 shall be included in the total penalty, fine, or forfeiture, together
25 with and in the same manner as the amount established pursuant
26 to subdivision (b) of Section 76000.

(c) The moneys collected pursuant to this section shall be held by the county treasurer in the same manner, and shall be payable for the same purposes, described in subdivision (e) of Section 76104.

(d) (1) *Notwithstanding any provision of law to the contrary, in the County of Santa Barbara, the distribution set forth in subparagraph (B) of paragraph (5) of subdivision (b) of Section 1797.98a shall, instead, be 42 percent of the fund to hospitals providing disproportionate trauma and emergency medical services to uninsured patients who do not make any payment for services.*

(2) *Notwithstanding any provision of law to the contrary, in the County of Santa Barbara, the 17 percent distribution set forth in subparagraph (C) of paragraph (5) of subdivision (b) of Section 1797.98a shall not apply.*

(e) This section shall be implemented only if the Santa Barbara County Board of Supervisors adopts a resolution stating that implementation of this section is necessary to the county for purposes of providing payment for emergency medical services.

~~(e)~~

(f) This section shall remain in effect only until January 1, 2007, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends that date.

SEC. 2. Section 1797.98e of the Health and Safety Code is amended to read:

1797.98e. (a) It is the intent of the Legislature that a simplified, cost-efficient system of administration of this chapter be developed so that the maximum amount of funds may be utilized to reimburse physicians and surgeons and for other emergency medical services purposes. The administering agency shall select an administering officer and shall establish procedures and time schedules for the submission and processing of proposed reimbursement requests submitted by physicians and surgeons. The schedule shall provide for disbursements of moneys in the Emergency Medical Services Fund on at least a quarterly basis to applicants who have submitted accurate and complete data for payment. When the administering agency determines that claims for payment for physician and surgeon services are of sufficient numbers and amounts that, if paid, the claims would exceed the total amount of funds available for payment, the administering

1 agency shall fairly prorate, without preference, payments to each
2 claimant at a level less than the maximum payment level. Each
3 administering agency may encumber sufficient funds during one
4 fiscal year to reimburse claimants for losses incurred during that
5 fiscal year for which claims will not be received until after the
6 fiscal year. The administering agency may, as necessary, request
7 records and documentation to support the amounts of
8 reimbursement requested by physicians and surgeons and the
9 administering agency may review and audit the records for
10 accuracy. Reimbursements requested and reimbursements made
11 that are not supported by records may be denied to, and recouped
12 from, physicians and surgeons. Physicians and surgeons found to
13 submit requests for reimbursement that are inaccurate or
14 unsupported by records may be excluded from submitting future
15 requests for reimbursement. The administering officer shall not
16 give preferential treatment to any facility, physician and surgeon,
17 or category of physician and surgeon and shall not engage in
18 practices that constitute a conflict of interest by favoring a facility
19 or physician and surgeon with which the administering officer has
20 an operational or financial relationship. A hospital administrator
21 of a hospital owned or operated by a county of a population of
22 250,000 or more as of January 1, 1991, or a person under the direct
23 supervision of that person, shall not be the administering officer.
24 The board of supervisors of a county or any other county agency
25 may serve as the administering officer. The administering officer
26 shall solicit input from physicians and surgeons and hospitals to
27 review payment distribution methodologies to ensure fair and
28 timely payments. This requirement may be fulfilled through the
29 establishment of an advisory committee with representatives
30 comprised of local physicians and surgeons and hospital
31 administrators. In order to reduce the county's administrative
32 burden, the administering officer may instead request an existing
33 board, commission, or local medical society, or physicians and
34 surgeons and hospital administrators, representative of the local
35 community, to provide input and make recommendations on
36 payment distribution methodologies.

37 (b) Each provider of health services that receives payment
38 under this chapter shall keep and maintain records of the services
39 rendered, the person to whom rendered, the date, and any
40 additional information the administering agency may, by



1 regulation, require, for a period of three years from the date the
2 service was provided. The administering agency shall not require
3 any additional information from a physician and surgeon
4 providing emergency medical services that is not available in the
5 patient record maintained by the entity listed in subdivision (f)
6 where the emergency medical services are provided, nor shall the
7 administering agency require a physician and surgeon to make
8 eligibility determinations.

9 (c) During normal working hours, the administering agency
10 may make any inspection and examination of a hospital's or
11 physician and surgeon's books and records needed to carry out the
12 provisions of this chapter. A provider who has knowingly
13 submitted a false request for reimbursement shall be guilty of civil
14 fraud.

15 (d) Nothing in this chapter shall prevent a physician and
16 surgeon from utilizing an agent who furnishes billing and
17 collection services to the physician and surgeon to submit claims
18 or receive payment for claims.

19 (e) All payments from the fund pursuant to Section 1797.98c
20 to physicians and surgeons shall be limited to physicians and
21 surgeons who, in person, provide onsite services in a clinical
22 setting, including, but not limited to, radiology and pathology
23 settings.

24 (f) All payments from the fund shall be limited to claims for
25 care rendered by physicians and surgeons to patients who are
26 initially medically screened, evaluated, treated, or stabilized in
27 any of the following:

28 (1) A basic or comprehensive emergency department of a
29 licensed general acute care hospital.

30 (2) A site that was approved by a county prior to January 1,
31 1990, as a paramedic receiving station for the treatment of
32 emergency patients.

33 (3) A standby emergency department that was in existence on
34 January 1, 1989, in a hospital specified in Section 124840.

35 (4) For the 1991–92 fiscal year and each fiscal year thereafter,
36 a facility which contracted prior to January 1, 1990, with the
37 National Park Service to provide emergency medical services.

38 (g) Payments shall be made only for emergency medical
39 services provided on the calendar day on which emergency

1 medical services are first provided and on the immediately
2 following two calendar days.

3 (h) Notwithstanding subdivision (g), if it is necessary to
4 transfer the patient to a second facility providing a higher level of
5 care for the treatment of the emergency condition, reimbursement
6 shall be available for services provided at the facility to which the
7 patient was transferred on the calendar day of transfer and on the
8 immediately following two calendar days.

9 (i) Payment shall be made for medical screening examinations
10 required by law to determine whether an emergency condition
11 exists, notwithstanding the determination after the examination
12 that a medical emergency does not exist. Payment shall not be
13 denied solely because a patient was not admitted to an acute care
14 facility. Payment shall be made for services to an inpatient only
15 when the inpatient has been admitted to a hospital from an entity
16 specified in subdivision (f).

17 (j) The administering agency shall compile a quarterly and
18 yearend summary of reimbursements paid to facilities and
19 physicians and surgeons. The summary shall include, but shall not
20 be limited to, the total number of claims submitted by physicians
21 and surgeons in aggregate from each facility and the amount paid
22 to each physician and surgeon. The administering agency shall
23 provide copies of the summary and forms and instructions relating
24 to making claims for reimbursement to the public, and may charge
25 a fee not to exceed the reasonable costs of duplication.

26 (k) Each county shall establish an equitable and efficient
27 mechanism for resolving disputes relating to claims for
28 reimbursements from the fund. The mechanism shall include a
29 requirement that disputes be submitted either to binding
30 arbitration conducted pursuant to arbitration procedures set forth
31 in Chapter 3 (commencing with Section 1282) and Chapter 4
32 (commencing with Section 1285) of Part 3 of Title 9 of the Code
33 of Civil Procedure, or to a local medical society for resolution by
34 neutral parties.

35 (l) This section shall remain in effect only until January 1,
36 2007, and as of that date is repealed, unless a later enacted statute,
37 that is enacted before January 1, 2007, deletes or extends that date.

38 SEC. 3. Section 1797.98e is added to the Health and Safety
39 Code, to read:

1 1797.98e. (a) It is the intent of the Legislature that a
2 simplified, cost-efficient system of administration of this chapter
3 be developed so that the maximum amount of funds may be
4 utilized to reimburse physicians and surgeons and for other
5 emergency medical services purposes. The administering agency
6 shall select an administering officer and shall establish procedures
7 and time schedules for the submission and processing of proposed
8 reimbursement requests submitted by physicians and surgeons.
9 The schedule shall provide for disbursements of moneys in the
10 Emergency Medical Services Fund on at least a quarterly basis to
11 applicants who have submitted accurate and complete data for
12 payment. When the administering agency determines that claims
13 for payment for physician and surgeon services are of sufficient
14 numbers and amounts that, if paid, the claims would exceed the
15 total amount of funds available for payment, the administering
16 agency shall fairly prorate, without preference, payments to each
17 claimant at a level less than the maximum payment level. Each
18 administering agency may encumber sufficient funds during one
19 fiscal year to reimburse claimants for losses incurred during that
20 fiscal year for which claims will not be received until after the
21 fiscal year. The administering agency may, as necessary, request
22 records and documentation to support the amounts of
23 reimbursement requested by physicians and surgeons and the
24 administering agency may review and audit the records for
25 accuracy. Reimbursements requested and reimbursements made
26 that are not supported by records may be denied to, and recouped
27 from, physicians and surgeons. Physicians and surgeons found to
28 submit requests for reimbursement that are inaccurate or
29 unsupported by records may be excluded from submitting future
30 requests for reimbursement. The administering officer shall not
31 give preferential treatment to any facility, physician and surgeon,
32 or category of physician and surgeon and shall not engage in
33 practices that constitute a conflict of interest by favoring a facility
34 or physician and surgeon with which the administering officer has
35 an operational or financial relationship. A hospital administrator
36 of a hospital owned or operated by a county of a population of
37 250,000 or more as of January 1, 1991, or a person under the direct
38 supervision of that person, shall not be the administering officer.
39 The board of supervisors of a county or any other county agency
40 may serve as the administering officer. The administering officer

1 shall solicit input from physicians and surgeons and hospitals to
2 review payment distribution methodologies to ensure fair and
3 timely payments. This requirement may be fulfilled through the
4 establishment of an advisory committee with representatives
5 comprised of local physicians and surgeons and hospital
6 administrators. In order to reduce the county's administrative
7 burden, the administering officer may instead request an existing
8 board, commission, or local medical society, or physicians and
9 surgeons and hospital administrators, representative of the local
10 community, to provide input and make recommendations on
11 payment distribution methodologies.

12 (b) Each provider of health services that receives payment
13 under this chapter shall keep and maintain records of the services
14 rendered, the person to whom rendered, the date, and any
15 additional information the administering agency may, by
16 regulation, require, for a period of three years from the date the
17 service was provided. The administering agency shall not require
18 any additional information from a physician and surgeon
19 providing emergency medical services that is not available in the
20 patient record maintained by the entity listed in subdivision (f)
21 where the medical services are provided, nor shall the
22 administering agency require a physician and surgeon to make
23 eligibility determinations.

24 (c) During normal working hours, the administering agency
25 may make any inspection and examination of a hospital's or
26 physician and surgeon's books and records needed to carry out the
27 provisions of this chapter. A provider who has knowingly
28 submitted a false request for reimbursement shall be guilty of civil
29 fraud.

30 (d) Nothing in this chapter shall prevent a physician and
31 surgeon from utilizing an agent who furnishes billing and
32 collection services to the physician and surgeon to submit claims
33 or receive payment for claims.

34 (e) All payments from the fund pursuant to Section 1797.98c
35 to physicians and surgeons shall be limited to physicians and
36 surgeons who, in person, provide onsite services in a clinical
37 setting, including, but not limited to, radiology and pathology
38 settings.

39 (f) All payments from the fund shall be limited to claims for
40 care rendered by physicians and surgeons to patients who are



1 initially medically screened, evaluated, treated, or stabilized in
2 any of the following:

3 (1) A basic or comprehensive emergency department of a
4 licensed general acute care hospital.

5 (2) A site that was approved by a county prior to January 1,
6 1990, as a paramedic receiving station for the treatment of
7 emergency patients.

8 (3) A standby emergency department that was in existence on
9 January 1, 1989, in a hospital specified in Section 124840.

10 (4) For the 1991–92 fiscal year and each fiscal year thereafter,
11 a facility which contracted prior to January 1, 1990, with the
12 National Park Service to provide emergency medical services.

13 (g) Payments shall be made only for emergency services
14 provided on the calendar day on which emergency medical
15 services are first provided and on the immediately following two
16 calendar days, however, payments may not be made for services
17 provided beyond a 48-hour period of continuous service to the
18 patient.

19 (h) Notwithstanding subdivision (g), if it is necessary to
20 transfer the patient to a second facility providing a higher level of
21 care for the treatment of the emergency condition, reimbursement
22 shall be available for services provided at the facility to which the
23 patient was transferred on the calendar day of transfer and on the
24 immediately following two calendar days, however, payments
25 may not be made for services provided beyond a 48-hour period
26 of continuous service to the patient.

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28 required by law to determine whether an emergency condition
29 exists, notwithstanding the determination after the examination
30 that a medical emergency does not exist. Payment shall not be
31 denied solely because a patient was not admitted to an acute care
32 facility. Payment shall be made for services to an inpatient only
33 when the inpatient has been admitted to a hospital from an entity
34 specified in subdivision (f).

35 (j) The administering agency shall compile a quarterly and
36 yearend summary of reimbursements paid to facilities and
37 physicians and surgeons. The summary shall include, but shall not
38 be limited to, the total number of claims submitted by physicians
39 and surgeons in aggregate from each facility and the amount paid
40 to each physician and surgeon. The administering agency shall

1 provide copies of the summary and forms and instructions relating
2 to making claims for reimbursement to the public, and may charge
3 a fee not to exceed the reasonable costs of duplication.

4 (k) Each county shall establish an equitable and efficient
5 mechanism for resolving disputes relating to claims for
6 reimbursements from the fund. The mechanism shall include a
7 requirement that disputes be submitted either to binding
8 arbitration conducted pursuant to arbitration procedures set forth
9 in Chapter 3 (commencing with Section 1282) and Chapter 4
10 (commencing with Section 1285) of Part 3 of Title 9 of the Code
11 of Civil Procedure, or to a local medical society for resolution by
12 neutral parties.

13 (l) This section shall become operative January 1, 2007.

14 SEC. 4. Section 42007.5 is added to the Vehicle Code, to read:

15 42007.5. (a) Notwithstanding paragraph (2) of subdivision
16 ~~(a)~~ (b) of Section 42007, in Santa Barbara County, upon the
17 establishment of a Maddy Emergency Medical Services Fund
18 pursuant to Section 1797.98a of the Health and Safety Code, the
19 amount that would have been collected pursuant to Section
20 76104.1 of the Government Code shall be deposited in the Maddy
21 Emergency Medical Services Fund established by the county
22 pursuant to Section 1797.98a of the Health and Safety Code.

23 (b) The Board of Supervisors of the County of Santa Barbara
24 shall report to the Legislature whether, and to the extent that, any
25 actions are taken by the County of Santa Barbara to implement
26 alternative local sources of funding.

27 (c) This section shall remain in effect only until January 1,
28 2007, and as of that date is repealed, unless a later enacted statute,
29 that is enacted before January 1, 2007, deletes or extends that date.

30 SEC. 5. The Legislature finds and declares that due to unique
31 circumstances regarding emergency medical services in Santa
32 Barbara County, a general statute cannot be made applicable
33 within the meaning of Section 16 of Article IV of the California
34 Constitution. Therefore, the special legislation contained in
35 Section 1 of this act is necessarily applicable only to Santa Barbara
36 County.

37 SEC. 6. Notwithstanding Section 17610 of the Government
38 Code, if the Commission on State Mandates determines that this
39 act contains costs mandated by the state, reimbursement to local
40 agencies and school districts for those costs shall be made pursuant

1 to Part 7 (commencing with Section 17500) of Division 4 of Title
2 2 of the Government Code. If the statewide cost of the claim for
3 reimbursement does not exceed one million dollars (\$1,000,000),
4 reimbursement shall be made from the State Mandates Claims
5 Fund.

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